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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,016	05/25/2006	Andreas Haas	20794/0204431-US0	1757
7278 7590 08/28/2009 DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER HECKERT, JASON MARK				
ART UNIT		PAPER NUMBER		
1792				
MAIL DATE		DELIVERY MODE		
08/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,016

Applicant(s)

HAAS ET AL.

Examiner

JASON HECKERT

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date 5/25/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9, 12, 14-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Jang et al. Jang discloses that a dishwasher comprising a pump, spraying system, and water distributor capable of random patterns was conventional at the time of invention. More specifically, Jang shows a spray arm 1b that contains individual water nozzles 4a and 5a. After a pump delivers water to the spray arm, it reaches a container in which ball valve 6a is located. Based on water pressure and rotational forces, ball valve 6a will either block nozzle 4a or 5a. Jang admits that this causes an irregular pattern of shutting off the nozzle ports, which is readable on a random manner. The ball valve is located within a chamber like cage that includes a depression (figure 4). Nozzles 4a and 5a each have guide paths that can be restricted by the ball valve disposed on respective sides of the depression. Jang does not teach that nozzles 4a and 5a are groups of nozzles. However this is not considered to be a patentable feature as it would only require duplicating the outlets of nozzles 4a and 5a to result at the claimed invention. Duplication of parts was held to have been obvious. *St. Regis Paper Co. v. Beemis Co. Inc.* 193 USPQ 8, 11 (1977); *In re Harza* 124 USPQ 378 (CCPA 1960).

Furthermore, multiple spray nozzles on a single spray arm are conventional (see figures 1 and 2).

3. Claims 9-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Favret in view of Jang et al. Favret discloses a dishwashing machine with improved spray arms. The spray arms contain at least two sets of plural nozzles (items 10 and 12). A water distribution device, regulating the pathway of the water emitted by pump 13, is located in a rotational axis of the nozzle arm (see figures 2 and 3) as well as the supply conduit. However, the device of Favret does not deliver water in a random manner, as it relies on the water pressure which is controlled by the pump. Jang, as stated above, teaches a water distribution device that provides water to nozzles in a random manner. The device comprises a ball located within a cage. The cage has a depression. Guide paths to the nozzles are located on respective sides of the depression (figure 4). It would have been obvious at the time of the invention to modify Favret and include the distribution mechanism taught by Jang, in order to provide random flow to both nozzle paths. Furthermore, it is considered to be obvious to substitute one known distribution design with another as long as both were known at the time of invention, as they achieve predictable results to one of ordinary skill.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HECKERT whose telephone number is (571)272-2702. The examiner can normally be reached on Mon. to Friday, 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571)272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Barr/
Supervisory Patent Examiner, Art
Unit 1792

JMH